

## World Council of Churches

### UPR submission on Dominican Republic - Right to a Nationality

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- 1) Outcomes from UPR of Dominican Republic 2014

During the last UPR of Dominican Republic (DR) which took place in February 2014, 14 recommendations were made relating to the theme of the right to a nationality and of statelessness.

**Nicaragua, Uruguay, Brazil and Ireland** recommended that the DR ratify or accede to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness. (98.15-18). In addition, **Italy** called for international standards on nationality and statelessness to continue to be fully applied in the country to all individuals without discrimination, and **Argentina** recommended the strengthening of measures to guarantee the right to a nationality and inclusion of necessary safeguards to prevent statelessness of those born in the territory of the DR (98.114).

**Norway** recommended that DR seek the technical advice of the United Nations High Commissioner for Refugees to identify and prevent statelessness, and protect stateless persons, to address the challenges created by the ruling of the Constitutional Court (98.126).

When the report of the UPR was adopted by the Human Rights Council, the DR responded that it had taken recommendations 98.15-18, and 126 “under advisement” and was taking steps to achieve compliance but it was not possible to guarantee immediate compliance.

**Uruguay** recommended that measures be maximized to resolve cases of statelessness in coordination with the UN and Inter-American multilateral system, (98.113) and Chile called for the adoption of measures to ensure that Dominicans of foreign descent keep their Dominican nationality, avoiding cases of statelessness (98.118)

**Canada** (98.125), **Spain** (98.128) and **France** (98.133) made recommendations concerning measures needed to prevent statelessness resulting from Constitutional Tribunal ruling 168/13.

The DR rejected recommendations 98.113, 118, 125, 128 and 133, stating that “they are based on false premises and there is not reflection in them of the spirit of cooperation and respect that underpins this exercise”.

In addition, during the review, **Jamaica** expressed the concern that “the discriminatory Constitutional Court ruling TC0168/13 would render many persons of Haitian descent stateless, which was of concern. It welcomed the resumption of dialogue with Haiti in seeking to address this issue. It urged the Government to resolve the issue of citizenship rights of Dominicans of Haitian descent and other affected nationals.”

## 2) Background to violations of the right to a nationality

Thousands of Haitians arrived in the DR in 1918 when the sugar cane plantations were created. At the beginning only men went, but during the 1930s and 40s, both men and women moved there. The newly arrived Haitians were given the equivalent of a work permit, which allowed them to stay, work and register their children, who became Dominicans through the principle of *jus soli* - being born in the land. These descendants constitute a significant minority in the country.

Although they have always faced discrimination and exclusion, being born in the DR was enough to acquire Dominican citizenship until 2010. The only exceptions were births to people “in transit” and the children born to diplomats. Current concerns began in 2004 with Migration Law 285-04 which stated that parents need to be “legal” in order for their children to be Dominican. According to this migration law, in 2007, Resolution 12-07 started to bring limitations to the acquisition of nationality. The Civil registry started to review all birth certificates and identify people on the basis of their surnames, locations and ID papers of the parents. People who had finished school and wanted a passport to go to University had difficulty to renew their birth certificates (which need an up to date photograph). Thousands of people were denied their right to obtain a legally attested copy of their birth certificate, which in the Dominican Republic is requirement for access to basic services and rights like registering in University, marriage, registering children and obtaining decent work.

In 2013 the Constitutional Court then ruled in its judgement 168/13 that all Dominicans from Haitian origin born in the country within the period from 1929 to 2007 were not Dominicans, but Haitians “in transit.” The effect of this ruling was to determine that Dominicans of Haitian origin had never been Dominicans, and rendered them stateless.

Following the UPR of February 2014, and following international pressure against the Ruling 168-13 the Dominican legislature passed a Naturalization Law in May that year that was intended to assist affected Dominicans reclaim their citizenship. The Law envisaged the validation of birth certificates and the restoration of nationality for those registered as born on Dominican soil between 1929 and 2007 (Group A). In addition, a special registration procedure for those who were born on Dominican soil but never registered in the Dominican civil registers, was created in the section for birth records of foreign nationals (Group B)

It also allowed such people to apply to regularize their status as migrants and, after two years, to apply for Dominican citizenship through the regular naturalization procedure. However, those born between 2007 and 2010 were not covered by this law. The law placed the burden of proof on the affected individuals to provide records of their births as well as their parents’ births in the Dominican Republic, and was hampered by implementation flaws.

Many of the births were either never registered—in many cases because Dominican government officials denied records to people of Haitian descent, or because Dominican officials did not return original birth certificates to people.

Today, there are nearly 53,827 people from Group A, and approximately 79,947 in Group B. 8,755 from Group B have started the registration process, but it is still not clear if they can become nationals. But the most critical are the 70,000 or so left who do not belong to any group, and whose situation remains unclear.

As a result of this legislation and Constitutional Court decisions, people of Haitian origin are fragmented, and live in segregation. The number of stateless people is unclear, but the majority are women and children. According to Encuesta Nacional de Inmigrantes (ENI, National Survey of Inmigrants) 2012, of the 53,827 in Group A, only 13,500 have been benefited from the law 169-14, leaving around 40,327 in an uncertain situation. There are 79,947 persons belonging to Group B, and according to the preliminary figures of the Ministry of Interior and Police (MIP) indicates that only 8,755 people benefited from Law 169-14.

### 3) Impact upon human rights

Statelessness can also be understood as an enormous socio-economic liability that negatively affects the overall human rights situation and personal well-being of affected persons and thus contributes and exacerbates poverty. Being stateless in the Dominican Republic negatively impacts the satisfaction of people's basic needs for food, clothing, and shelter and violates many other rights. The right to an adequate living standard, the right to water, the human right to work are neither protected nor guaranteed. The social marginalization created by the deprivation of identity documentation is a major obstacle to overcoming structural poverty, especially in rural areas of the Dominican Republic. In the “Bateyes”- sugar cane plantations - generations of people of Haitian descent live and work in undocumented and governmentally neglected circumstances. As they do not enjoy their right to nationality, they are unable to enjoy other human rights that would enable them to overcome discriminatory and marginalised living situations.

Statelessness is a very divisive issue in the DR, even within the government. Haitian descendants are now the third and even fourth generation to be born in the DR, but some political parties make use of the anti-Haitian discourse and consider such people as transients even after 50-70 years. The government goes as far as recognising that there is a nationality problem for people of Haitian origin living in the country, but never uses the word “statelessness”.

#### *Conditions in the sugar cane plantations – the “Bateyes”*

Most of the Dominicans of Haitian descent are still living in the Bateyes, as their parents and grandparents did. Bateyes belong to the government and private corporations, and most remain isolated and lacking in basic infrastructure, such as a lack of running water and electricity, and access to education, as they did when the first Haitian migrants worked in them over 100 years ago.

Concerns include an insufficient supply of clean drinking water and limited access to adequate sanitation systems which impacts upon the right to health of those who live and work there. The infant mortality rate is higher than the national average. In the Bateyes, most families consist of both members from group A and from Group B, with some who have no one in either group.

#### *Other affected groups*

Whilst people of Haitian descent account for over 86 percent of the affected population, some people from other origins are also affected. It is estimated that there are more than 25,000 Venezuelans (according to ENI 2017) who have overstayed their tourist visas in the DR, of whom an estimated 22,000 are in need of protection and have no access to documentation.

They are economically vulnerable, have limited access to health services, and are at particular risk of being trafficked. Some are trying to apply for a humanitarian visa.

The 2013 Constitutional Ruling (168-13) also affected people of European descent who were born and raised in the country, and who overnight lost their Dominican nationality. Unlike those of Haitian descent, they had another nationality (European) which explains why they have not become stateless.

#### 4) Recommendations:

The World Council of Churches makes the following recommendations:

- 1) The Dominican Republic is urged to accede and adhere to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness as a matter of urgency.
- 2) The Government of the Dominican Republic must take measures to address the ongoing and institutionalized discrimination against Dominicans who are described as Dominicans of Haitian descent. This can be accomplished through education and awareness-raising campaigns throughout the country.
- 3) The Dominican Republic must recognize the citizenship of those currently referred to as “Dominicans of Haitian descent” – this language must be addressed so that such people are simply recognized in law as “Dominicans”.
- 4) The Dominican Government must provide clear information concerning the results of the implementation of law 169-14, and the ENI-2017, and present the results to the Dominican and international communities. At the time of writing this report, no such information has been made available as to how many people in Group A have benefited from the law, and how many in Group B have acquired Dominican nationality through the naturalisation process.

- 5) The Dominican Government must allow effective and non-discriminatory access to programs and policies implemented by the government targeted to reduce poverty and famine, to persons currently deprived of their nationality and referenced as Dominicans of Haitian descent.
- 6) The Dominican Government must abstain from deportations and forced return of persons particularly of Haitian descent who are - or who are at risk of being - stateless.
- 7) The Dominican Government needs to facilitate and meaningful and effective forum for discussion with civil society in order to work towards a solution to the situation of persons who are – or are a risk of being – stateless.